

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MISTY M. ENDRISS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-10-1401-L
)	
MICHAEL J. ASTRUE,)	
Commissioner of the Social Security)	
Administration,)	
)	
Defendant.)	

ORDER

On January 19, 2012, Magistrate Judge Gary M. Purcell entered a Report and Recommendation in this action brought by plaintiff pursuant to 42 U.S.C. §405(g) for judicial review of the defendant Commissioner of the Social Security Administration's (Commissioner's) final decision denying plaintiff's application for disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 416(i), 423. The Magistrate Judge recommended that the Commissioner's decision be affirmed.

The court file reflects that plaintiff timely filed her Objections to the Magistrate's Report and Recommendation, which the court has carefully considered. Upon review, the court finds that plaintiff's objections are insufficient to justify overturning the conclusions of the Magistrate Judge in this instance. Plaintiff attaches much significance to the Magistrate Judge's

statement on page 6 of the Report and Recommendation that the ALJ “must determine what weight, if any, should be given to the opinion by considering such factors as: [quoting factors set forth by the Tenth Circuit in Watkins v. Barnhart, 350 F.3d 1297, 1301 (10th Cir. 2003)].” Plaintiff argues that the Magistrate Judge's choice of wording improperly implies that the factors listed are “merely examples” of the factors that might be considered, whereas Watkins makes clear that “all of the factors must be considered.” Plaintiff's Objections, Doc. No. 26, pp. 5-6. In rejecting plaintiff's argument in this regard, the court finds that Watkins' admonition that treating source medical opinions “must be weighed using all of the factors” indicates a level of flexibility depending upon the factors in a given case and that the Magistrate's use of the phrase “such as” when listing the factors cannot reasonably be taken as evidence that the Magistrate misunderstood Watkins or meant to suggest that “all of the factors” should not be weighed. The Magistrate Judge was correct in concluding that the ALJ provided adequate reasons for his evaluation of the opinions of treating physicians.

The court has reviewed plaintiff's remaining objections as they relate to alleged errors in the Report and Recommendation. The court finds that plaintiff's arguments were correctly analyzed under proper legal standards and the findings in the Report and Recommendation are supported by the record.

Thus, upon *de novo* review, the court finds that the the Report and Recommendation should be and is hereby adopted in its entirety. Accordingly, the decision of the Commissioner to deny plaintiff's application for disability insurance benefits is **AFFIRMED**.

It is so ordered this 19th day of March, 2012.



TIM LEONARD
United States District Judge